

Kent Ries  
State Bar No. 16914050  
2700 S. Western St., Suite 300  
Amarillo, Texas 79109  
(806) 242-7437  
(806) 242-7440 – Fax

COUNSEL FOR TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

<b>IN RE:</b>	§	
	§	
<b>RICHARD K. ARCHER and</b>	§	<b>CASE NO. 17-20045-RLJ-7</b>
<b>RUTH E. ARCHER,</b>	§	
	§	
<b>Debtors.</b>	§	

**SIXTH MOTION TO OPERATE BUSINESSES AND CONTINUE  
COMMERCIAL PROPERTY MANAGEMENT AGREEMENT**

TO THE HONORABLE ROBERT L. JONES, BANKRUPTCY JUDGE:

COMES NOW, Kent Ries, Trustee of the referenced Chapter 7 bankruptcy estate, and files this Sixth Motion to Operate Businesses and Continue Commercial Property Management Agreement, and in support thereof would respectfully show unto the Court as follows:

1. An Order for relief under Chapter 7 of the Bankruptcy Code was entered on February 24, 2017. Kent Ries was subsequently appointed and qualified to serve as the Trustee over the bankruptcy estate.

2. The Debtors operated two retail shopping centers located in the 2500 block of Paramount Blvd. and at 6010 S.W. 34<sup>th</sup> Avenue in Amarillo, Texas (the “Shopping Centers”). Ostensibly these Shopping Centers were owned and operated by the Debtors’ profit sharing plan. However, pursuant to an Order signed by this Court on July 12, 2018, that retirement plan was

disqualified under the Internal Revenue Code and the assets of the plan were determined to be non-exempt property of this bankruptcy estate.

3. The Trustee previously requested authorization to operate the Shopping Centers under Section 721 of the Bankruptcy Code until December 31, 2021, which was approved by an Order of this Court entered on January 26, 2021. The shopping center on Paramount was sold pursuant to an Order of this Court entered June 20, 2019. That sale was closed on July 3, 2019. The Trustee wishes to extend the authorization to operate the 34<sup>th</sup> Avenue shopping center (“34<sup>th</sup> Avenue”) until September 30, 2022. If no sale has occurred by September 30, 2022, the Trustee will file another motion updating the Court on the status of the 34<sup>th</sup> Avenue property and request appropriate action based on that update (e.g. extension of time to sell, or an auction to sell). The Trustee expects that the operation of the 34<sup>th</sup> Avenue property will continue to be a profitable business for the bankruptcy estate. The Shopping Centers have been accounted for via a separate bank account maintained by the Trustee. The balance in that account as of December 23, 2021 is \$78,330.01, which represents the net profit generated by the Shopping Centers to date.

4. The Trustee has maintained liability and property damage insurance on the Shopping Centers, effective as of July 31, 2018. The major expenses of the Shopping Centers has been the payment of 2017 through 2021 property taxes. Additionally the insurance coverage required some basic repairs to the Paramount property, primarily to its parking lot. Finally, several tenant’s air conditioner units have had to be replaced.

5. Pursuant to a prior Order, the Trustee contracted with Gaut Whittenburg Emerson CRE (“Gaut”) to handle day-to-day operations of the business (pending sale of the Shopping Centers). Gaut charges the estate six percent (6%) of the gross monthly rentals generated by the Shopping Centers for their management services. In addition to their management fee, Gaut

receives six percent (6%) of any new leases entered into by the Shopping Centers and three percent (3%) of the value of any renewed lease of current tenants of the Shopping Centers. The Trustee wishes to continue the agreement with Gaut on the same terms as previously approved.

6. The continued operation of Debtor's business would be in the best interest of the Estate and consistent with the orderly liquidation of the Estate. If the 34<sup>th</sup> Avenue property was shut down and the tenant leases terminated, the value of the 34<sup>th</sup> Avenue property would likely decrease significantly.

7. The Gaut firm sold the Paramount property and is marketing the sale of the 34<sup>th</sup> Avenue property on behalf of the Trustee. Several offers have been received by the Trustee on the 34<sup>th</sup> Avenue property. The offers have been increasing over time as Gaut has stabilized the tenants in the property and now have trustworthy accounting records on the property that did not previously exist. The 34<sup>th</sup> Avenue property has title issues that preclude a sale at this time. Those title issues should be resolved in 2022.

**WHEREFORE, PREMISES CONSIDERED,** Trustee prays that he be authorized to operate the debtor's business and continue the Commercial Property Management Agreement, and such other relief to which Trustee may show himself justly entitled.

Respectfully submitted,

KENT RIES  
2700 S. Western St., Suite 300  
Amarillo, Texas 79109  
(806) 242-7437  
FAX (806) 242-7440

By: /s/ Kent Ries  
Kent Ries  
State Bar No. 16914050  
COUNSEL FOR TRUSTEE

**CERTIFICATE OF SERVICE**

I, Kent Ries, certify that on the 23<sup>rd</sup> day of December, 2021, a true and correct copy of the foregoing Motion was sent either electronically or mailed in the United States mail, postage prepaid, to the parties listed on the attached mailing matrix:

/s/ Kent Ries

\_\_\_\_\_  
Kent Ries

205 East Fifth Street, Room 201D  
Amarillo, TX 79101-1559

Albert Alvarez  
PO Box 1748  
Austin, TX 78767-1748

Bobby Tunnell  
c/o Attorney Dean Boyd, PLLC  
2505 Lakeview Drive, Ste 100  
Amarillo, TX 79109-1525

BSA  
P.O. Box 4780  
Troy, MI 48099-4780

Citibank, N.A.  
PO Box 6062  
Sioux Falls, SD 57117

David Allison  
7604 Rustling Cove  
Austin, TX 78731-1332

Internal Revenue Service\*  
Centralized Insolvency Operation  
PO Box 7346  
Philadelphia, PA 19101-7346

Kent David Ries  
2700 S. Western Street  
Suite 300  
Amarillo, TX 79109-1536

Lovelady, Christy & Associates  
801 S. Fillmore, Ste. 420  
Amarillo, TX 79101-3520

Naman, Howell, Smith & Lee  
8310 Capital of Texas Hwy., Ste.  
490  
Austin, TX 78731-1081

Northwest Texas Healthcare System,  
Inc.  
1501 S. Coulter  
Amarillo, TX 79106-1770

Northwest Texas Healthcare  
Systems, Inc.  
The Turek Law Firm, PC  
25227 Grogans Mill Road, Suite  
100A  
The Woodlands, TX 77380-2178

Patrick Alan Swindell  
Swindell Law Firm  
1619 S. Kentucky St., Ste. B202  
Amarillo, TX 79102-2276

Potter County Tax Office  
c/o Perdue Brandon Fielder  
Collins & Mott, LLP  
Amarillo, TX 79105-9132

PRA Receivables Management, LLC  
PO Box 41021  
Norfolk, VA 23541-1021

PYOD, LLC its successors and  
assigns as assi  
of Citibank, N.A.  
Resurgent Capital Services  
Greenville, SC 29602-9008

Randall County Tax Office  
c/o Perdue Brandon Fielder  
Collins & Mott, LLP  
Amarillo, TX 79105-9132

Richard K. Archer  
6867 Fulton  
Amarillo, TX 79109-5003

Ruth E. Archer  
6867 Fulton  
Amarillo, TX 79109-5003

Swindell Law Firm P.C.  
1105 S. Taylor  
Amarillo, TX 79101-4315

Synchrony Bank  
c/o PRA Receivables Management,  
LLC  
PO Box 41021  
Norfolk, VA 23541-1021

Taxing Districts %PBFCM  
Pedue Brandon Law Firm  
PO BOX 9132  
AMARILLO, TX 79105-9132

The Picard Partners, Ltd.  
Burdett Morgan Williamson &  
Boykin, LLP  
701 S. Taylor  
Amarillo, TX 79101-2424

United Collection Bureau  
5620 Soutawyck Blvd, Suite 206  
Toledo, OH 43614-1501

United States Trustee  
1100 Commerce Street  
Room 976  
Dallas, TX 75242-0996

US Attorney  
Amarillo National Plaza  
500 S. Taylor Ste. 300, LB 238  
Amarillo, TX 79101-2401

US Trustee  
William T. Neary  
1100 Commerce St. Rm. 976  
Dallas, TX 75242-1011

Western Equipment  
404 Frisco Ave.  
Clinton, OK 73601-3440